

REMARKS/ARGUMENTS

This application has been amended in a manner that places it in condition for allowance at the time of the next Official Action.

Claims 1, 3-7, 11-14, 17-20, 22, 23, 27-31, 35, 36, 40-43 and 47-49 are pending in the present application. Claims 32-34 and 53 have been canceled. Claims 1 and 27 have been amended to more particularly point out and distinctly claim the present invention.

In the outstanding Official Action, claims 1, 27, and 32-34 were rejected under 35 USC 112, second paragraph, as allegedly being indefinite. Applicants believe that the present amendment obviates this rejection.

In rejecting claim 1, the Official Action alleged that claim 1 was unclear and indefinite since it stated that R_1 and R_2 could be H, yet also stated that compounds wherein R_1 or R_2 or H were excluded.

Claim 1 has been amended to recite that R_1 and R_2 may be selected from H, alkyl, alkynyl, acyl, or sulfonyl. However, claim 1 also plainly recites that compounds wherein each of R_1 and R_2 are independently H, methyl, ethyl, or propyl are excluded. Thus, while it is true that R_1 and R_2 may both be hydrogen, applicants believe that is it clear to one of ordinary

skill in the art that R_1 and R_2 cannot each be H at the same time.

In the outstanding Official Action, claims 32-34 were rejected as being substantial duplicates of claim 27. As noted above, claims 32-34 have been canceled. As a result, it is believed that this rejection has been rendered moot.

Claim 27 was rejected for allegedly being indefinite for reciting the term "heterocyclic group containing N". Applicants believe that the present amendment renders this rejection moot.

Claim 27 has been amended to recite that the "heterocyclic group containing N" is a ring having 4 to 6 carbon atoms with a N bound within said ring. This recitation was previously found in claim 53 (now canceled).

While applicants note that claim 53 was rejected under 35 USC 112, first paragraph, as allegedly failing to comply with the written description requirement, applicants traverse the contention that the recitation that "a ring containing 4 to 6 carbon atoms with a N bound within said ring" is not supported by the original disclosure.

As the Examiner is aware, in reviewing a specification for compliance with the written description requirement, one must not place undue emphasis on "the presence or absence of literal

support in the specification for the claim language." The test is whether the disclosure of the application as originally filed "reasonably conveys to the artisan that the inventor had possession at the time of the later claimed subject matter". *In re Kaslow*, 707 F.2d 1366, 217 USPQ (BNA) 1089 (Fed. Circ. 1983). Indeed, the Examiner's attention is respectfully directed to Examples 15, 16, 27 and 28 in the present specification (see pages 25-26 and 38-39). The present specification clearly recites the several heterocyclic groups in a ring having 4 to 6 carbon atoms with a N bound within said ring.

Thus, while the present specification may not explicitly recite such heterocyclic groups, the original disclosure clearly conveys to one of ordinary skill in the art that the inventors were in possession of heterocyclic groups having 4 to 6 carbon atoms with a N bound within the ring. Thus, it is believed that the recitation is supported by the original disclosure and that claim 27 is definite to one of ordinary skill in the art.

In view of the present amendment and the foregoing remarks, therefore, it is believed that this application is now in condition for allowance, with claims 1, 3-7, 11-14, 17-20, 22, 23, 27-31, 35, 36, 40-43 and 47-49, as presented. Allowance and passage to issue on that basis are accordingly respectfully requested.

Application No. 10/088,965
Amdt. dated November 19, 2003
Reply to Office Action of September 4, 2003
Docket No. 8012-1018

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

Philip DuBois

Philip DuBois, Reg. No. 50,696
745 South 23rd Street
Arlington, VA 22202
Telephone (703) 521-2297

PD:fb